

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2007-3-E – ORDER NO. 2007-674  
OCTOBER 3, 2007

IN RE: Annual Review of Base Rates for Fuel Costs	)	ORDER APPROVING
for Duke Energy Carolinas, LLC	)	BASE RATES FOR FUEL
	)	COSTS AND ADOPTING
	)	SETTLEMENT
	)	AGREEMENT

**I. BACKGROUND**

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the annual review of base rates for fuel costs of Duke Energy Carolinas, LLC (“Duke Energy Carolinas” or the “Company”). The procedure followed by the Commission is set forth in S.C. Code Ann. § 58-27-865, as amended by 2007 S.C. Acts 16 (Senate Bill 431), which provides for annual hearings to allow the Commission and all interested parties to review the prudence of the fuel purchasing practices and policies of an electrical utility and for the Commission to determine if any adjustment in a utility’s fuel cost recovery mechanism is necessary and reasonable.

The parties before the Commission in this docket are Duke Energy Carolinas, the Office of Regulatory Staff of South Carolina (“ORS”), and South Carolina Energy Users Committee (“SCEUC”) (collectively referred to as the “Parties” or sometimes individually as a “Party”). Prior to the hearing, the Parties filed a Settlement Agreement, dated August 16, 2007 (the “Settlement Agreement”), with the Commission. The

Settlement Agreement is attached as Order Exhibit 1 and is incorporated in and made part of this Order.

## **II. JURISDICTION OF THE COMMISSION**

In accordance with S.C. Code Ann. § 58-27-140 (1), the Commission may, upon petition, ascertain and fix just and reasonable standards, classifications, regulations, practices or service to be furnished, imposed, observed, and followed by any or all electrical utilities. Further, S.C. Code Ann. § 58-27-865(B) states, in pertinent part, that “upon conducting public hearings in accordance with law, the [C]ommission shall direct each company to place in effect in its base rate an amount designed to recover, during the succeeding twelve months, the fuel costs determined by the [C]ommission to be appropriate for that period, adjusted for the over-recovery or under-recovery from the preceding twelve-month period.”

Consistent with the requirements of S.C. Code Ann. § 58-27-865 (B) and the Commission’s Settlement Policies and Procedures, the Commission convened an evidentiary hearing to determine the reasonableness of the Parties’ settlement and whether acceptance of the settlement is just, fair, and in the public interest.

## **III. DISCUSSION OF THE HEARING AND THE SETTLEMENT AGREEMENT**

The public evidentiary hearing in this matter was held on August 23, 2007 before this Commission with the Honorable G. O’Neal Hamilton, Chairman, presiding. Representing the Parties were Lara Simmons Nichols, Esquire,<sup>1</sup> and William F. Austin, Esquire, for the Company; Scott Elliott, Esquire, for SCEUC; and C. Lessie Hammonds,

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<sup>1</sup> On July 11, 2007, the Commission granted Ms. Nichols’ request for admission pro hoc vice in this docket.

Esquire, for ORS. At the hearing, the Parties presented the Settlement Agreement (Order Exhibit 1) that was filed with the Commission on August 16, 2007. In the Settlement Agreement, which was admitted into the record as Hearing Exhibit 1, the Parties represented to the Commission that they had discussed the issues presented in this case and determined that each Party's interests and the public interest would be best served by settling all issues pending in this case in accordance with the terms and conditions contained in the Settlement Agreement.

Further, the Parties presented witnesses in support of the Settlement Agreement and various other matters related to the Company's base rates for fuel costs. Duke Energy Carolinas' witnesses Elliott Batson, Ronald A. Jones, and David C. Culp presented direct testimony on behalf of the Company and sponsored composite Hearing Exhibit 2.<sup>2</sup> Company witness John J. Roebel presented direct testimony on behalf of Duke Energy Carolinas. Finally, Company witness Jane L. McManeus (i) presented both direct and supplemental testimony on behalf of Duke Energy Carolinas, (ii) sponsored composite Hearing Exhibit 2, and (iii) sponsored the Settlement Agreement (Hearing Exhibit 1). The prefiled testimony of all Company witnesses was accepted into the record without objection, and the exhibits attached to each witness' pre-filed testimony were marked as composite Hearing Exhibit 2 and entered into the record of the case.

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<sup>2</sup> Composite Hearing Exhibit 2 consists of The Direct Testimony and Exhibits of Ronald A. Jones (redacted and non-redacted versions) (Exhibits 1-3); the Direct Testimony and Exhibits of M. Elliott Batson (Exhibits 1-4); the Direct Testimony of John J. Roebel; the Direct Testimony and Exhibits of David C. Culp (Exhibits 1-2); the Direct Testimony and Exhibits of Jane L. McManeus (Exhibits 1-9) as corrected; the Direct Testimony (includes the Report of the Audit Department) and Exhibits of Jacqueline R. Cherry (Exhibits 1-7); the Direct Testimony and Exhibits of Michael Seaman-Huynh (Exhibits 1-11); and the Supplemental Testimony of Jane L. McManeus.

Company witness Elliott Batson testified regarding Duke Energy Carolinas' fossil fuel purchasing practices and costs for the period of July 2006 through June 2007 and described any related changes forthcoming in the projected period. Duke Energy Carolinas' witness John J. Roebel discussed the performance of the Company's fossil-fueled and hydroelectric generating facilities during the period of July 1, 2006, through June 30, 2007, and their operating efficiency during the test period. Mr. Roebel testified that Duke Energy Carolinas' generating system operated efficiently and reliably during the test period.

In his testimony, Company witness Ronald A. Jones discussed the performance of Duke Energy Carolinas' nuclear generation fleet during the test period.<sup>3</sup> He reported to the Commission that Duke Energy Carolinas achieved a net nuclear capacity factor, excluding reasonable outage time, of 102.70% for the current period, which is above the 92.5% set forth in S.C. Code Ann. § 58-27-865. Company witness David C. Culp provided further information regarding the Company's nuclear fuel purchasing practices and costs for the test period and described changes forthcoming in the 2007-2008 forecast period.

Next, Duke Energy Carolinas' witness Jane L. McManeus testified regarding the Company's procedures and accounting for fuel, actual fuel costs incurred since July 2006, actual environmental costs incurred for the period May 4, 2007 through June 30, 2007, the associated over/under-recovery of such costs, and the Company's computations of projected fuel and environmental costs. After adjusting for the environmental under-

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<sup>3</sup> On August 8, 2007, we granted the Motion of Duke Energy Carolinas to treat specific material filed in the present proceeding as confidential. Specifically, the Commission Ordered that certain materials contained in Duke Energy Carolinas' witness Ronald A. Jones' Testimony and Exhibit 3 should be treated as confidential.

recovery, she described how the various components of fuel are included in the calculation of the Company's fuel expenses, and explained the basis for estimated fuel costs during the billing period. Ms. McManeus explained that in compliance with 2007 S.C. Acts 16, and specifically the amendments to S. C. Code Ann. § 58-27-865 (A)(1), which add certain variable environmental costs to the definition of "fuel cost" and require the development of a separate environmental component of the overall fuel factor, the Company calculated an environmental component for each of the Residential, General Service/Lighting, and Industrial customer classes. The over/under recovery of environmental costs incurred since the enactment of 2007 S.C. Acts 16 and the projected environmental costs are allocated among the three customer classes based upon firm peak load. The resulting allocated costs are converted to the environmental component for each class expressed in cents per KWH and added to the fuel component. Ms. McManeus proposed combined fuel factors of 1.8215¢/KWH for Residential customers<sup>4</sup>, 1.8057¢/KWH for General Service/Lighting customers and 1.7829¢/KWH for Industrial customers. In proposing these combined fuel factors, Ms. McManeus testified that such factors should result in the Company being neither under nor over-recovered in its fuel costs, including environmental costs, at the end of the billing period in September 2008.

Following the Company witnesses, ORS presented the direct testimony of Ms. Jacqueline R. Cherry, who also sponsored composite Hearing Exhibit 2 and testified in support of the Settlement Agreement (Hearing Exhibit 1). Specifically, Ms. Cherry testified about the audit carried out by ORS, as well as the agreed upon accounting

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<sup>4</sup> During the hearing Ms. McManeus responded to a question from the Commission regarding the impact of the proposed rate increase for a typical residential customer. The parties agree that the response to this question should have been \$ 0.46 per 1,000 KWH.

adjustments reflected in the Settlement Agreement. With regard to the true-up of over/under-recovered fuel costs, she testified that ORS analyzed the cumulative over/under-recovery of fuel costs that the Company incurred for the period July 2006 through June 2007 and determined the cumulative over-recovery amount totaled \$1,632,482 as of June 2007. Ms. Cherry then added the projected under-recovery of \$(1,594,797) for the month of July 2007, the projected under-recovery of \$(155,662) for the month of August 2007, and the projected over-recovery of \$6,116,009 for September 2007, to arrive at a cumulative over-recovery of \$5,998,032 as of September 30, 2007. In the Settlement Agreement, the Parties agreed to stipulate to ORS' calculations in this matter.

Michael L. Seaman-Huynh also presented direct testimony for ORS and sponsored composite Hearing Exhibit 2. Mr. Seaman-Huynh testified as to ORS' assessment of the reasonableness of Duke Energy Carolinas' costs and operations, concluding that the Company made reasonable efforts to maximize unit availability and minimize fuel costs. The prefiled testimony of both Mr. Seaman-Huynh and Ms. Cherry were accepted into the record without objection, and the exhibits attached to each witness' pre-filed testimony were also marked as a part of composite Hearing Exhibit 2 and entered into the record of the case.

In summary, through the testimony and exhibits presented to the Commission in this proceeding the Parties represent that settling all issues pending in this case in accordance with the terms and conditions contained in the Settlement Agreement is just, fair, and reasonable and in the public interest. The terms of the Settlement Agreement are summarized as follows:

- (a) The Parties agree to accept all accounting adjustments as set forth in ORS witness Jacqueline R. Cherry's prefiled direct testimony.
- (b) The Parties agree that the fuel factors contained in the prefiled direct testimony of Company witness Jane L. McManeus represent the appropriate fuel costs, environmental costs, and combined projected fuel factors for Duke Energy Carolinas to charge for the period beginning with the first billing cycle in October 2007 through the last billing cycle of September 2008 by customer class as set forth in the following table:

**Summary ¢/KWH**

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Customer Class	SC Fuel Cost from McManeus Exhibit 6	SC Environmental Costs from McManeus Exhibits 7 & 8	Combined Projected Fuel Factor from McManeus Exhibit 9
1 Residential	1.7457	0.0758	1.8215
2 General Service/Lighting	1.7457	0.0600	1.8057
3 Industrial	1.7457	0.0372	1.7829

- (c) The Parties agree that the fuel factors set forth in Ms. McManeus' prefiled direct testimony were calculated consistent with 2007 S.C. Acts 16, and further that fuel costs for periods beginning on July 1, 2007 and thereafter shall be open issues for determination by the Commission in future fuel cost proceedings held under the procedure and criteria established in S.C. Code Ann. § 58-27-865, as amended by 2007 S.C. Acts 16.
- (d) The Parties agree that to keep the Parties and Duke Energy Carolinas' customers informed of the over/under-recovery balances related to fuel costs and of Duke Energy Carolinas' commercially reasonable efforts to

forecast the expected fuel factors to be set at its next annual fuel proceeding, the Company will provide SCEUC, ORS, and where applicable, its customers with (i) copies of the monthly fuel recovery reports currently filed with the Commission and ORS; and (ii) a quarterly forecast of the expected fuel factors to be set at its next annual fuel proceeding.

#### **IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Having heard the testimony of the witnesses and representations of counsel and after careful review of the Settlement Agreement, the Commission finds that approval of the terms set out in the Settlement Agreement is consistent with the standards for fuel review proceedings conducted pursuant to S.C. Code Ann. § 58-27-865, as amended by 2007 S.C. Acts 16, and is supported by the substantial evidence in the record. The Settlement Agreement's terms allow recovery in a precise and prompt manner while assuring public confidence and minimizing abrupt changes in charges to customers. As such, approval of the Settlement Agreement is in the public interest as a reasonable resolution of the issues in this case. Additionally, we find that the methodology for determining the environmental cost factor used by Duke Energy Carolinas in this proceeding, while not binding in future proceedings, is consistent with the statutory requirements of S.C. Code Ann. § 58-27-865, as amended, and is just and reasonable. We further find that the Settlement Agreement's terms (i) provide stabilization to the fuel factor, (ii) minimize fluctuations for the near future, and (iii) do not appear to inhibit economic development in South Carolina. Additionally, the Commission finds and concludes that the Settlement Agreement affords the Parties with the opportunity to

review costs and operational data in succeeding fuel review proceedings conducted pursuant to S.C. Code Ann. §58-27-865, as amended by 2007 S.C. Acts 16.

IT IS THEREFORE ORDERED THAT:

1. The Settlement Agreement attached hereto as Order Exhibit 1 and the prefiled direct testimony of ORS witnesses Jacqueline R. Cherry and Michael L. Seaman-Huynh, and Duke Energy Carolinas' witnesses Elliott Batson, John J. Roebel, Ronald A. Jones, David C. Culp, and Jane L. McManeus, along with their respective exhibits entered into evidence as composite Hearing Exhibit 2, are accepted into the record in the above-captioned case without objection. Further, the oral testimony of the above witnesses presented at the hearing on August 23, 2007, is also incorporated into the record of this case.

2. The Settlement Agreement is incorporated into this present Order by reference and attachment and is found to be a reasonable resolution to the issues of this case and further found to be in the public interest.

3. The fuel purchasing practices, plant operations, and fuel inventory management of Duke Energy Carolinas are reasonable and prudent.

4. Duke Energy Carolinas shall set its fuel factor (excluding environmental costs) at 1.7457 cents per kWh effective for bills rendered on and after the first billing cycle of October 2007 and continuing through the billing month of September 2008.

5. Duke Energy Carolinas shall set its environmental cost component factor at 0.0758 cents per kWh for the Residential customer class, 0.0600 cents per kWh for the General Service/Lighting customer class, and 0.0372 cents per kWh for the Industrial customer class for bills rendered on or after the first billing cycle of October 2007 and

continuing through the billing month of September 2008. With the 1.7457 cents per kWh fuel factor, the total combined fuel factors for each class of customers including the environmental cost components shall be as follows for bills rendered on or after the first billing cycle of October 2007 and continuing through the billing month of September 2008: 1.8215 cents per kWh for the Residential customer class, 1.8057 cents per kWh for General Service and Lighting customers, and 1.7829 cents per kWh for Industrial customers.

6. The Parties shall abide by all terms of the Settlement Agreement.

7. Duke Energy Carolinas shall file with the Commission and ORS an original and ten (10) copies of the South Carolina Retail Adjustment for Fuel Cost and all other retail Tariffs within ten (10) days of receipt of this Order.

8. Duke Energy Carolinas shall comply with the notice requirements set forth in S.C. Code Ann. §58-27-865.

9. Duke Energy Carolinas shall continue to file the monthly reports as previously required.

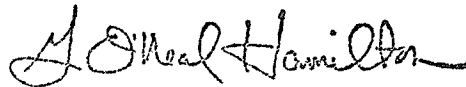
10. Duke Energy Carolinas shall account monthly to the Commission and ORS for the differences between the recovery of fuel costs through base rates and the actual fuel costs experienced by booking the difference to unbilled revenues with a corresponding deferred debit or credit. ORS shall monitor the cumulative recovery account.

11. Duke Energy Carolinas shall submit monthly reports to the Commission and ORS of fuel costs and scheduled and unscheduled outages of generating units with a capacity of 100 MW or greater.

12. Duke Energy Carolinas shall inform the Parties on a quarterly basis as to the fuel factors the Company expects to be set at the next annual fuel cost review proceeding.

13. This Order shall remain in full force and effect until further Order of the Commission.

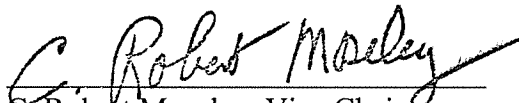
BY ORDER OF THE COMMISSION:



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G. O'Neal Hamilton, Chairman

ATTEST:

  
C. Robert Moseley, Vice Chairman

(SEAL)

**BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2007-3-E  
August 16, 2007**

IN RE:

Annual Review of Base Rates for Fuel Costs )  
for Duke Energy Carolinas, LLC ) **SETTLEMENT AGREEMENT**

This Settlement Agreement is made by and among the Office of Regulatory Staff of South Carolina (“ORS”), South Carolina Energy Users Committee (“SCEUC”), and Duke Energy Carolinas, LLC (“Duke Energy Carolinas”) (collectively referred to as the “Parties” or sometimes individually as a “Party”).

WHEREAS, the above-captioned proceeding has been established by the Public Service Commission of South Carolina (“Commission”) pursuant to the procedure in S.C. Code Ann. §58-27-865 as amended by 2007 S.C. Acts 16, and the Parties to this Settlement Agreement are parties of record in the above-captioned docket. There are no other parties of record in the above-captioned proceeding;

WHEREAS, the Parties have engaged in discussions to determine if a settlement of the issues would be in their best interests;

WHEREAS, following those discussions the Parties have each determined that their interests and the public interest would be best served by settling all issues pending in the above-captioned case under the terms and conditions set forth below:

1. The Parties agree to stipulate into the record before the Commission the pre-filed direct testimony and exhibits of ORS witnesses Michael L. Seaman-Huynh and Jacqueline R. Cherry, without objection or cross-examination by the Parties. The Parties also agree to stipulate into the record before the Commission the redacted and unredacted pre-filed direct testimony and exhibits of Duke Energy Carolinas witness Ronald A. Jones, and the pre-filed direct testimony and exhibits of M. Elliott Batson, John J. Roebel, David C. Culp and Jane L. McManeus, without objection or cross-examination by the Parties. The Parties agree that no other evidence will be offered in the proceeding by the Parties other than the stipulated testimony and exhibits, the supplemental testimony of Duke Energy Carolinas witness Jane L. McManeus supporting the Parties' settlement, and this Settlement Agreement. The Parties agree to present all witnesses at the scheduled hearing in this matter.

2. ORS' review of Duke Energy Carolinas' operation of its generating facilities resulted in the conclusion that Duke Energy Carolinas has made reasonable efforts to maximize unit availability and minimize fuel costs. Additionally, ORS has determined that Duke Energy Carolinas took appropriate corrective action with respect to any outages that occurred during the review period.

3. As a compromise to positions advanced by Duke Energy Carolinas, ORS, and SCEUC, all Parties agree to the proposal set out immediately below, and this proposal is hereby adopted, accepted, and acknowledged as the agreement of the Parties. The Parties agree that:

4. ORS analyzed the cumulative over-recovery of fuel costs that Duke Energy Carolinas had incurred for the period July 2006 through June 2007 totaling \$1,632,482. ORS added the projected under-recovery of \$1,594,797 for the month of July 2007, the projected under-recovery of \$155,662 for the month of August 2007 and the projected over-recovery of \$6,116,009 for the month of September 2007, to arrive at a cumulative over-recovery of \$5,998,032 as of September 2007. Duke Energy Carolinas' cumulative over-recovery, per its testimony in this docket, as of June 2007 totals \$1,937,000, and as of September 2007, the cumulative over-recovery totals \$6,302,000. The difference between Duke Energy Carolinas' and the ORS' cumulative over-recovery as of actual June

2007 totals \$304,518. The difference between Duke Energy Carolinas' and ORS' cumulative over-recovery, as of September 2007 totals \$303,968. The Parties agree to accept all accounting adjustments as put forth in ORS witness Cherry's pre-filed direct testimony.

5. The Parties agree that the fuel factors contained in the prefled direct testimony and exhibits of Duke Energy Carolinas' witness Jane L. McManeus represent the appropriate fuel costs, environmental costs, and combined projected fuel factors for Duke Energy Carolinas to charge for the period beginning with the first billing cycle in October 2007 through the last billing cycle of September 2008 by customer class as set forth in the table below:

**Summary ¢/KWH**

Customer Class	SC Fuel Cost from McManeus Exhibit 6	SC Environmental Costs from McManeus Exhibits 7 & 8	Combined Projected Fuel Factor from McManeus Exhibit 9
1 Residential	1.7457	0.0758	1.8215
2 General Service/Lighting	1.7457	0.0600	1.8057
3 Industrial	1.7457	0.0372	1.7829

6. The Parties agree that the fuel factors as set forth in Paragraph 5 above are consistent with 2007 S.C. Acts 16. Fuel costs for periods beginning on July 1, 2007, and thereafter shall be open issues for determination by the Commission in future fuel costs proceedings held under the procedure and criteria established in S.C. Code Ann. §58-27-865 as amended by 2007 S.C. Acts 16.

7. The Parties agree that in an effort to keep the Parties and Duke Energy Carolinas' customers informed of the over/under recovery balances related to fuel costs and of Duke Energy Carolinas' commercially reasonable efforts to forecast the expected fuel factor to be set at its next annual fuel proceeding, Duke Energy Carolinas will provide to SCEUC, ORS, and where applicable, its customers the following information:

(a) copies of the monthly fuel recovery reports currently filed with the Commission and ORS; and

(b) a quarterly forecast continuing November 30, 2007 of the expected fuel factor to be set at its next annual fuel proceeding based upon Duke Energy Carolinas' historical over/under recovery to date and Duke Energy Carolinas' forecast of prices for natural gas, coal, oil and other fuel required for generation of electricity. Duke Energy Carolinas will use commercially reasonable efforts in making these forecasts. To the extent that the forecast data required hereunder is confidential, any party or customer that wants forecasted fuel data will have to sign a non-disclosure agreement agreeing to protect the data from public disclosure and to only disclose it to employees or agents with a need to be aware of this information.

8. The Parties agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission as a fair, reasonable and full resolution of all issues currently pending in the above-captioned proceeding. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.

9. The Parties agree that any and all challenges to Duke Energy Carolinas' historical fuel costs and revenues for the period ending June 2007 are not subject to further review; however, fuel costs and revenues for periods beginning July 2007 and thereafter shall be open issues in future proceedings and will continue to be trued-up against actual costs in such proceedings held under S.C. Code Ann. §58-27-865 as amended by 2007 S.C. Acts 16.

10. This written Settlement Agreement contains the complete agreement of the Parties. The Parties agree that by signing this Settlement Agreement, it will not constrain, inhibit or impair their arguments or positions held in future proceedings. If the Commission declines to approve the agreement in its entirety, then any Party desiring to do so may withdraw from the agreement without

penalty, within 3 days of receiving notice of the decision, by providing written notice of withdrawal via electronic mail to all parties in that time period.

11. This agreement shall be effective upon execution of the Parties and shall be interpreted according to South Carolina law.

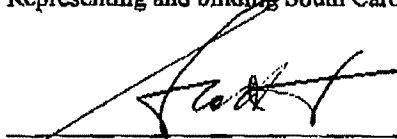
12. This Settlement Agreement in no way constitutes a waiver or acceptance of the position of any Party concerning the methodology or requirements of S.C. Code Ann. §58-27-865 as amended by 2007 S.C. Acts 16 in any future proceeding.

13. This Settlement Agreement shall bind and inure to the benefit of each of the signatories hereto and their representatives, predecessors, successors, assigns, agents, shareholders, officers, directors (in their individual and representative capacities), subsidiaries, affiliates, parent corporations, if any, joint ventures, heirs, executors, administrators, trustees, and attorneys.

14. The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and e-mail signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement.

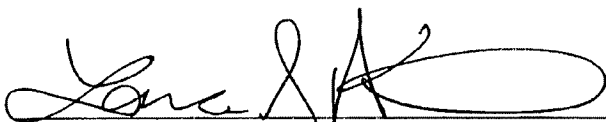
(Signature Pages Follow)

Representing and binding South Carolina Energy Users Committee:

A handwritten signature in black ink, appearing to read "Scott Elliott", is written over a horizontal line.

Scott Elliott, Esquire  
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Representing and binding Duke Energy Carolinas, LLC:

A handwritten signature in black ink, appearing to read 'Lara Simmons Nichols', written over a horizontal line.

Lara Simmons Nichols, Esquire

Duke Energy Carolinas, LLC

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William F. Austin, Esquire

Austin, Lewis & Rogers, P.A.

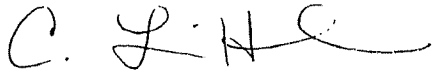
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Representing and binding the Office of Regulatory Staff:

A handwritten signature in black ink, appearing to read 'C. L. Hammonds', written over a horizontal line.

C. Lessie Hammonds, Esquire  
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